

the General Hugh Shelton Congressional Gold Medal Award. This bipartisan bill will bestow a fitting tribute to this superior warrior and great American. I urge all of my colleagues to join me in supporting this important legislation.

#### HONORING FALLEN FIREFIGHTERS

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Madam Speaker, I rise today in strong support of H.J. Res. 42, a resolution to honor our fallen firefighters.

The events of September 11 highlighted the hard work and dedication of many emergency personnel. Many of us watched the pictures on the evening news of men and women walking into burning buildings carrying injured people to safety and retrieving bodies beneath the buried rubble.

Today, after those recent terrorist attacks and the rescue efforts that ensued, it seems especially poignant and timely that Congress pass a resolution as a memorial to such acts of heroism.

Firefighters are the first persons to respond to any emergency. They are ambassadors of courage, wisdom, and heroism.

In my home State of West Virginia, there are many dedicated firefighters who put their lives on the line each year. Between 1981 and 1999, West Virginia has lost 25 firefighters in the line of duty. Honored in last year's ceremony was Arch Russell Sligar. This year we will honor Robert Cowey Brannon. Those are just two names of the many men and women who have lost their lives.

Madam Speaker, in light of the recent demonstrations of bravery by the New York and Washington area firefighters, as well as the endless acts of service and sacrifice of all firefighters, I urge passage of the resolution, and that we will be lowering our flags to half-mast every October 7 in their honor.

□ 1415

#### SUPPORT THE CENTERS FOR EXCELLENCE PROGRAM

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Madam Speaker, I rise in support of the Centers for Excellence program and other health professions. The President's budget for the year 2002, Madam Speaker, has called for a drastic 60 percent reduction in these Health Resources and Service Administration health programs.

The HERSA agency, in addition, has announced this week that they would

be also limited to only \$12 million for this program for the year 2002, a significant decrease. According to the Health Education Program Act, the first \$12 million is set aside for the Historically Black Colleges and Universities. Thus, in order to continue the Hispanic and native Americans and other programs, we urge an increase in the existing budget for the Center for Health Care Services, which is at \$30 million.

The Centers for Excellence programs are essential and still needed to help increase the number of minorities in the health professions throughout the country. The program has a proven track record of producing and graduating more minority students than any other schools. So we encourage and we ask our fellow colleagues to support the \$30 million that we have had in the past. Hispanics now represent 12 percent of the population; and we need additional nurses, so we ask for my colleagues' support.

#### HONOR FALLEN FIREFIGHTERS BY FLYING FLAGS AT HALF-STAFF

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, I rise today to urge the unanimous support of my colleagues for H.J. Res. 42. This resolution simply requires Federal Government entities to fly the American flag at half staff on Sunday, October 7.

I ask my colleagues and all Americans to extend this extraordinary honor in conjunction with the annual memorial service in honor of fallen firefighters by the National Fallen Firefighters Foundation, which is located in Emmitsburg, Maryland, in the district I have the great privilege to represent in the House of Representatives.

The October 7 service is the highlight of the foundation's annual weekend of events to honor the sacrifice of firefighters who lost their lives in the line of duty. Particularly this year, we honor the hundreds of firefighters in New York City who on September 11, 2001, gave our country what President Abraham Lincoln called the last full measure of devotion to our country. This is the very least that we as individuals and as a government can do to honor and commemorate the selfless call to duty by these brave men and to offer some small measure of comfort to their grieving families, friends, relatives, and coworkers.

Madam Speaker, we owe it to them, ourselves and posterity to ensure that their deaths shall not be in vain.

#### URGING SUPPORT FOR MILLER/MILLER AMENDMENT TO H.R. 2646

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Madam Speaker, tomorrow we will be debating the farm bill; and in that bill is the sugar program, which hurts workers in my district.

Since the sugar program has been in effect, employment in the confectionery industry has fallen 11 percent since 1991. The sugar program has contributed to that fall because candy-makers in Chicago, in my district, pay more than twice the world market price for sugar. As long as these supports continue and we pay this inordinate amount, we are going to lose employment and employment opportunities.

Madam Speaker, I urge my colleagues to support the Miller-Miller amendment.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 8 of rule XX, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6 p.m. today.

#### NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT OF 2001

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 169) to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes, as amended.

The Clerk read as follows:

H.R. 169

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Definitions.

Sec. 103. Effective date.

#### TITLE II—FEDERAL EMPLOYEE

#### DISCRIMINATION AND RETALIATION

Sec. 201. Reimbursement requirement.

Sec. 202. Notification requirement.  
 Sec. 203. Reporting requirement.  
 Sec. 204. Rules and guidelines.  
 Sec. 205. Clarification of remedies.  
 Sec. 206. Study by General Accounting Office regarding exhaustion of administrative remedies.

### TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA DISCLOSURE

Sec. 301. Data to be posted by employing Federal agencies.  
 Sec. 302. Data to be posted by the Equal Employment Opportunity Commission.  
 Sec. 303. Rules.

### TITLE I—GENERAL PROVISIONS

#### SEC. 101. FINDINGS.

The Congress finds that—

(1) Federal agencies cannot be run effectively if they practice or tolerate discrimination,

(2) the Committee on the Judiciary of the House of Representatives has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees that point to chronic problems of discrimination and retaliation against Federal employees,

(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against a senior social scientist, and awarded that scientist \$600,000,

(4) in October 2000, an Occupational Safety and Health Administration investigation found that the Environmental Protection Agency had retaliated against a senior scientist for disagreeing with that agency on a matter of science and for helping Congress to carry out its oversight responsibilities,

(5) there have been several recent class action suits based on discrimination brought against Federal agencies, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshals Service,

(6) notifying Federal employees of their rights under discrimination and whistleblower laws should increase agency compliance with the law,

(7) requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over agencies' compliance with the law, and

(8) penalizing Federal agencies by requiring them to pay for any discrimination or whistleblower judgments, awards, and settlements should improve agency accountability with respect to discrimination and whistleblower laws.

#### SEC. 102. DEFINITIONS.

For purposes of this Act—

(1) the term “applicant for Federal employment” means an individual applying for employment in or under a Federal agency,

(2) the term “basis of alleged discrimination” shall have the meaning given such term under section 303,

(3) the term “Federal agency” means an Executive agency (as defined in section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission,

(4) the term “Federal employee” means an individual employed in or under a Federal agency,

(5) the term “former Federal employee” means an individual formerly employed in or under a Federal agency, and

(6) the term “issue of alleged discrimination” shall have the meaning given such term under section 303.

#### SEC. 103. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning more than 180 days after the date of the enactment of this Act.

### TITLE II—FEDERAL EMPLOYEE DISCRIMINATION AND RETALIATION

#### SEC. 201. REIMBURSEMENT REQUIREMENT.

(a) **APPLICABILITY.**—This section applies with respect to any payment made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code (relating to judgments, awards, and compromise settlements) to any Federal employee, former Federal employee, or applicant for Federal employment, in connection with any proceeding brought by or on behalf of such employee, former employee, or applicant under—

(1) any provision of law cited in subsection (c), or

(2) any other provision of law which prohibits any form of discrimination, as identified under rules issued under section 204.

(b) **REQUIREMENT.**—An amount equal to the amount of each payment described in subsection (a) shall be reimbursed to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, of such fund, or of such account available for the enforcement of any Federal law) available for operating expenses of the Federal agency to which the discriminatory conduct involved is attributable as determined under section 204.

(c) **SCOPE.**—The provisions of law cited in this subsection are the following:

(1) Section 2302(b) of title 5 of the United States Code, as applied to discriminatory conduct described in paragraphs (1) and (8), or described in paragraph (9) of such section as applied to discriminatory conduct described in paragraphs (1) and (8), of such section.

(2) The provisions of law specified in section 2302(d) of title 5 of the United States Code.

(3) The Whistleblower Protection Act of 1986 and the amendments made by such Act.

#### SEC. 202. NOTIFICATION REQUIREMENT.

(a) **IN GENERAL.**—Written notification of the rights and protections available to Federal employees, former Federal employees, and applicants for Federal employment (as the case may be) in connection with the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) shall be provided to such employees, former employees, and applicants—

(1) in accordance with otherwise applicable provisions of law, or

(2) if to the extent that no such notification would otherwise be required, in such time, form, and manner as shall under section 204 be required in order to carry out the requirements of this section.

(b) **POSTING ON THE INTERNET.**—Any written notification under this section shall include, but not be limited to, the posting of the information required under paragraph (1) or (2) (as applicable) of subsection (a) on the Internet site of the Federal agency involved.

(c) **EMPLOYEE TRAINING.**—Each Federal agency shall provide to the employees of

such agency training regarding the rights and remedies applicable to such employees under the laws cited in section 201(c).

#### SEC. 203. REPORTING REQUIREMENT.

(a) **ANNUAL REPORT.**—Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year—

(1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged,

(2) the status or disposition of cases described in paragraph (1),

(3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any,

(4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1),

(5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2)), and

(6) a detailed description of—

(A) the policy implemented by such agency to discipline employees who are determined in any judicial or administrative proceeding to have discriminated against any individual in violation of any of the laws cited in section 201(c), and

(B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken.

(b) **FIRST REPORT.**—The 1st report submitted under subsection (a) shall include for each item under subsection (a) data for each of the 5 immediately preceding fiscal years (or, if not available for all 5 fiscal years, for however many of those 5 fiscal years for which data are available).

#### SEC. 204. RULES AND GUIDELINES.

(a) **ISSUANCE OF RULES AND GUIDELINES.**—The President (or the designee of the President) shall issue—

(1) rules to carry out this title,

(2) rules to require that a comprehensive study be conducted in the Executive Branch to determine the best practices for Federal agencies to take appropriate disciplinary actions against Federal employees who are determined in any judicial or administrative proceeding to have discriminated against any individual in violation of any of the laws cited in section 201(c), and

(3) based on the results of such study, advisory guidelines incorporating best practices that Federal agencies may follow to take such actions against such employees.

(b) **AGENCY NOTIFICATION REGARDING IMPLEMENTATION OF GUIDELINES.**—Not later than 30 days after the issuance of guidelines under subsection (a), each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a written statement specifying in detail—

(1) whether such agency has adopted and will fully follow such guidelines,

(2) if such agency has not adopted such guidelines, the reasons for the failure to adopt such guidelines, and



(3) if such agency will not fully follow such guidelines, the reasons for the decision not to fully follow such guidelines and an explanation of the extent to which such agency will not follow such guidelines.

#### SEC. 205. CLARIFICATION OF REMEDIES.

Consistent with Federal law, nothing in this title shall prevent any Federal employee, former Federal employee, or applicant for Federal employment from exercising any right otherwise available under the laws of the United States.

#### SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES.

(a) **STUDY.**—Not later than 180 days after the date of the enactment of this Act, the General Accounting Office shall conduct a study relating to the effects of eliminating the requirement that Federal employees aggrieved by violations of any of the laws specified in paragraphs (7) and (8) of section 201(c) exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission. Such study shall include a detailed summary of matters investigated, of information collected, and of conclusions formulated that lead to determinations of how the elimination of such requirement will—

(1) expedite handling of allegations of such violations within Federal agencies and will streamline the complaint-filing process,

(2) affect the workload of the Commission,

(3) affect established alternative dispute resolution procedures in such agencies, and

(4) affect any other matters determined by the General Accounting Office to be appropriate for consideration.

(b) **REPORT.**—Not later than 90 days after completion of the study required by subsection (a), the General Accounting Office shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a report containing the information required to be included in such study.

### TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA DISCLOSURE

#### SEC. 301. DATA TO BE POSTED BY EMPLOYING FEDERAL AGENCIES.

(a) **IN GENERAL.**—Each Federal agency shall post on its public Web site, in the time, form, and manner prescribed under section 303 (in conformance with the requirements of this section), summary statistical data relating to equal employment opportunity complaints filed with such agency by employees or former employees of, or applicants for employment with, such agency.

(b) **CONTENT REQUIREMENTS.**—The data posted by a Federal agency under this section shall include, for the then current fiscal year, the following:

(1) The number of complaints filed with such agency in such fiscal year.

(2) The number of individuals filing those complaints (including as the agent of a class).

(3) The number of individuals who filed 2 or more of those complaints.

(4) The number of complaints (described in paragraph (1)) in which each of the various bases of alleged discrimination is alleged.

(5) The number of complaints (described in paragraph (1)) in which each of the various issues of alleged discrimination is alleged.

(6) The average length of time, for each step of the process, it is taking such agency to process complaints (taking into account all complaints pending for any length of time in such fiscal year, whether first filed in such fiscal year or earlier). Average times under this paragraph shall be posted—

(A) for all such complaints,

(B) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is not requested, and

(C) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is requested.

(7) The total number of final agency actions rendered in such fiscal year involving a finding of discrimination and, of that number—

(A) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(B) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(8) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

(A) the number and percentage involving a finding of discrimination based on each of the respective bases of alleged discrimination, and

(B) of the number specified under subparagraph (A) for each of the respective bases of alleged discrimination—

(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(9) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

(A) the number and percentage involving a finding of discrimination in connection with each of the respective issues of alleged discrimination, and

(B) of the number specified under subparagraph (A) for each of the respective issues of alleged discrimination—

(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(10)(A) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the number that were first filed before the start of the then current fiscal year.

(B) With respect to those pending complaints that were first filed before the start of the then current fiscal year—

(i) the number of individuals who filed those complaints, and

(ii) the number of those complaints which are at the various steps of the complaint process.

(C) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the total number of complaints with respect to which the agency violated the requirements of section 1614.106(e)(2) of title 29 of the Code of Federal Regulations (as in effect on July 1, 2000, and amended from time to time) by failing to conduct within 180 days of the filing of such complaints an impartial and appropriate investigation of such complaints.

(c) **TIMING AND OTHER REQUIREMENTS.**—

(1) **CURRENT YEAR DATA.**—Data posted under this section for the then current fiscal year shall include both—

(A) interim year-to-date data, updated quarterly, and

(B) final year-end data.

(2) **DATA FOR PRIOR YEARS.**—The data posted by a Federal agency under this section for a fiscal year (both interim and final) shall include, for each item under subsection (b), such agency's corresponding year-end data for each of the 5 immediately preceding fiscal years (or, if not available for all 5 fiscal years, for however many of those 5 fiscal years for which data are available).

#### SEC. 302. DATA TO BE POSTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

(a) **IN GENERAL.**—The Equal Employment Opportunity Commission shall post on its public Web site, in the time, form, and manner prescribed under section 303 for purposes of this section, summary statistical data relating to—

(1) hearings requested before an administrative judge of the Commission on complaints described in section 301, and

(2) appeals filed with the Commission from final agency actions on complaints described in section 301.

(b) **SPECIFIC REQUIREMENTS.**—The data posted under this section shall, with respect to the hearings and appeals described in subsection (a), include summary statistical data corresponding to that described in paragraphs (1) through (10) of section 301(b), and shall be subject to the same timing and other requirements as set forth in section 301(c).

(c) **COORDINATION.**—The data required under this section shall be in addition to the data the Commission is required to post under section 301 as an employing Federal agency.

#### SEC. 303. RULES.

The Equal Employment Opportunity Commission shall issue any rules necessary to carry out this title.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 169, as amended, the bill under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today is a historic day for the House, as we are about to consider, and likely pass, what Jack White at Time Magazine called "the first new civil rights law of the 21st century."

I, along with the gentlewoman from Texas (Ms. JACKSON-LEE), introduced H.R. 169, the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2001, or the No FEAR

Act, to address an outrage in the Federal Government. The Federal Government should serve as a model of the best practices for a fair and open work environment. But after a year-long investigation, I was surprised to discover that some Federal agencies appear to be allowing discrimination and retaliation against their own employees.

The General Accounting Office has also investigated discrimination in the Federal workforce and found complaints grew tremendously in the 1990s. In fact, in fiscal year 1999, the number of complaints to the Equal Employment Opportunities Commission was about 120 percent greater than the number of complaints in 1991. The GAO also reported that complaints alleging retaliation against employees who had participated in the complaint process had increased as well.

That very type of retaliation is what has brought us here today. A number of brave EPA employees and scientists came forward to tell the Committee on Science, which I chaired in the last Congress, about a culture of intolerance and hostility at the EPA. By assisting a congressional investigation, those employees risked retaliation, and some experienced it.

In fact, the Labor Department concluded that the EPA had retaliated against a female scientist because the Committee on Science used a memorandum she wrote 10 years prior to one of the hearings on the issue. She did not even know the committee had obtained her memorandum, but she was still punished by the agency.

The problem is threefold: first, many employees and managers are not aware of their rights and responsibilities, due to inadequate notification requirements. Second, Federal agencies in Congress cannot assess the extent of the problem due to inadequate reporting. Third, Federal agencies are not accountable for the misdeeds of their employees, as Federal agencies found guilty of discrimination do not have to pay judgment settlement costs.

The bill is aimed at preventing and reducing discrimination and retaliation in the Federal workforce by requiring better notification, reporting, and accountability from Federal agencies. The No FEAR Act would require agencies to pay for all court settlements or judgments for discrimination and retaliation cases, rather than allowing them to use a government-wide slush fund. This will make the agencies more accountable for their actions.

The bill's notification requirement is aimed at improving workforce relations by increasing managers' and employees' knowledge of their respective rights and responsibilities. The act's reporting requirement will help determine if a pattern of misconduct exists within an agency and, if so, whether an agency is taking appropriate action to address the problem, such as dis-

ciplining those employees or managers involved in the misconduct. Tracking this information is critical to understanding whether a problem exists.

Finally, the bill ensures that the Federal agencies abide by the same laws by which private citizens and businesses must operate. Just like private sector employees, Federal employees are protected against discrimination and retaliation. Just like the private sector, Federal agencies must be held accountable.

Madam Speaker, H.R. 169 enjoys a broad show of diverse support. The NAACP has endorsed this bill, as well as the National Taxpayers Union. As the National Taxpayers Union stated in urging Congress to enact the legislation, "The No FEAR Act promotes the virtues of fiscal responsibility and accountability in government."

Madam Speaker, I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I believe that this is an important day and a historic day, and it is a reflection on the value of persistence and determination.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, for having both persistence and determination. Both of us served on the House Committee on Science just a session ago when the gentleman chaired that committee and we heard some very disturbing testimony. Out of that testimony before the Committee on Science, together we worked on what is now H.R. 169, the No FEAR Act. I would like to thank him for his work, along with the gentleman from Michigan (Mr. CONYERS), the ranking member, and all of my colleagues from both sides of the aisle, for working with us and supporting this important civil rights legislation. This bill before us today, a substitute to H.R. 169, the No FEAR Act, is a major step in our fight to end the insidious practice of discrimination and retaliation in our Nation's Federal workplace. What better timing than in the contrast of recognizing how important our Federal workers are, how we are unified under one flag, hoping and pushing forward the democracy and principles that we all believe in.

Madam Speaker, in fiscal year 2000, Federal employees filed nearly 25,000 complaints against Federal agencies through the EEOC process. These complaints resulted in over \$26 million in discrimination complaint settlements and judgments, with an average process time of 384 days per complaint in 1998, while a case traveling through the entire complaint process from filing through appeal could take up to 38 months. These numbers and process

times indicate that discrimination is pervasive in our Federal workplace.

Under the Civil Rights Act of 1964, it is illegal to discriminate against Federal employees on the basis of race, color, sex, religion, national origin, age or disability. These laws have taken us a long way towards ensuring equality, job security, and the rule of law in the Federal workplace by protecting Federal employees from retaliation for filing complaints either against an agency or other employees of the Federal Government who act in supervisory roles. The Federal Government must be the national role model.

Currently, Federal whistleblowers may file reprisal complaints with the Office of Special Counsel, OSC; the Merit Systems Protection Board, MSPB; and the Department of Labor's Occupational Safety and Health Administration, OSHA. Federal whistleblowers are protected under several Federal laws, the primary one being the Whistleblower Protection Act of 1989. But the numbers of actions and extensive process time indicate that further legislation is greatly needed. I believe many agencies and many groups saw fit for such, such as the NAACP.

Since its introduction into the 106th Congress as H.R. 5516, the Notification and Federal Employee Antidiscrimination Retaliation Act of 2000 has stood for the principles that Federal employees should have "no fear" in reporting discriminatory behavior by their Federal agency employers. Like its predecessor, the legislation before us today, H.R. 169 demands that agencies be held accountable for their misdeeds; but it expands the accountability throughout the entire Federal Government.

Let me put a face on this problem. On October 2, 2000, 1 year ago to the day, the House Committee on Science held a hearing entitled "Intolerance at EPA: Harming People, Harming Science?" Dr. Marsha Coleman-Adebayo, an EPA whistleblower, won a \$600,000 jury decision against EPA for race and sex discrimination under title VII of the Civil Rights Act of 1964. During that hearing, the gentleman from Wisconsin (Mr. SENSENBRENNER), the then chairman of the Committee on Science, illuminated the dangerous precedent set by the EPA, stating: "While EPA has a clear policy on dealing with employees who discriminate, harass, and retaliate against other EPA employees, no one apparently involved in the Coleman-Adebayo or Nolan cases have yet to be disciplined by the EPA."

I note with concern that an internal EPA memo dated August 2, 2001, praised the managers named in Dr. Coleman-Adebayo's case as environmental leaders without a single mention of their role in violating her civil rights. When coupled with the high-profile nature of the case, I believe



these actions send the wrong message to EPA and Federal employees.

One manager was actually transferred from his original office, the Office of International Activities, to Dr. Coleman-Adebayo's present office. He will now be the counselor to the assistant administrator for Pollution Prevention, Pesticides and Toxic Substances.

I'd like to thank Judiciary chairman JAMES SENSENBRENNER, Ranking Member JOHN CONYERS, and all my colleagues from both sides of the aisle for supporting this important civil rights legislation. This bill before us today, a substitute to H.R. 169 (the No Fear Act), is a major step in our fight to end the insidious practice of discrimination and retaliation in our Nation's Federal workplace.

My friends, in fiscal year 2000, Federal employees filed nearly 25,000 complaints against Federal agencies through the EEOC process. The complaints resulted in over \$26 million in discrimination complaint settlements and judgments, with an average process time of 384 days per complaint in 1998, while a case traveling through the entire complaint process from filing through appeal could take up to 38 months. These numbers and process times indicate that discrimination is pervasive in our Federal workplace.

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Currently, Federal whistleblowers may file reprisal complaints with the Office of Special Counsel, (OSC), the Merit Systems Protection Board, (MSPB), and the Department of Labor's Occupational Safety and Health Administration, (OSHA). Federal whistleblowers are protected under several Federal laws, the primary one being the Whistleblower Protection Act of 1989. But the numbers of actions and extensive process times indicate that further legislation is greatly needed.

Since its introduction in the 106th Congress as H.R. 5516, the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2000 (No FEAR Act), has stood for the principle that Federal employees should have "no fear" in reporting discriminatory behavior by their federal agency employers. Like its predecessor, the legislation before us today, H.R. 169, demands that agencies be held accountable for their misdeeds, but H.R. 169 expands accountability throughout the entire Federal Government.

Let me put a face on this problem. On October 2, 2000, 1 year ago to the day, the House Science Committee held a hearing entitled "Intolerance at EPA—Harming People, Harming Science?" Dr. Marsha Coleman-Adebayo, an EPA whistleblower, won a \$600,000 jury decision against EPA for race and sex discrimination under title VII of the Civil Rights Act of 1964. During that hearing, then-chairman of the Science Committee SENSENBRENNER illu-

minated the dangerous precedent set by the EPA, stating, "While EPA has a clear policy on dealing with employees that discriminate, harass and retaliate against other EPA employees, no one apparently involved in the Coleman-Adebayo or Nolan cases have yet [sic] to be disciplined by EPA."

I note with concern that an internal EPA memo dated August 2, 2001, praised the managers named in Dr. Coleman-Adebayo's case as environmental leaders without a single mention of their role in violating her civil rights. When coupled with the high profile nature of the Dr. Coleman-Adebayo's case, I believe these actions send the wrong message to EPA and Federal employees.

One manager was actually transferred from his original office (the Office of International Activities) to Dr. Coleman-Adebayo's present office. He will not be the counselor to the Assistant Administrator for Pollution Prevention, Pesticides and Toxic Substances. This assignment gives the appearance that such harassment and retaliation is tolerated by the EPA, and raises the issue of whether such harassment, intimidation, and violations of civil rights are ongoing.

This assignment gives the appearance that such harassment and retaliation is tolerated by the EPA, and raises the issue of whether such harassment, intimidation, and violation of civil rights is ongoing.

This is a very serious matter of discrimination, and, I believe, obstruction of justice.

No FEAR contains four major provisions which address this problem.

First, the bill requires accountability throughout our Federal workplace. Disturbingly, under Federal law, Federal agencies are not held liable when they lose judgments, awards, or compromise settlements in whistleblower and discrimination cases.

Second, No FEAR requires Federal agencies to notify employees about any applicable discrimination and whistleblower protection laws, and to report to Congress and the Attorney General on the number of discrimination and whistleblower cases within each agency.

Third, No FEAR recognizes Congress' intent that such legislation is necessary, but should not otherwise limit the ability of Federal employees to exercise other rights under Federal law.

Finally, No FEAR requires each Federal agency to send an annual report to Congress listing, among other things, the number of cases and the disposition of the cases.

I am glad that the manager's amendment corrected the source of funds from which the recovery should come. It excludes all agency enforcement funds from being used to reimburse the general Treasury for discrimination or whistleblower judgments against the agency.

This is a timely piece of legislation. I would like to thank Kweisi Mfume, the President of NAACP, for taking the leadership in helping us to promote

this legislation, and for testifying before our respective committees.

Again, let me thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS), and all of our colleagues. I ask that this House unanimously support the No FEAR legislation in this very special time to promote our civil rights and civil liberties.

Madam Speaker, let me simply, again, offer my thanks and appreciation, and on behalf of the other Members, let me just mention that I know that several Members, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Maryland (Mr. WYNN), will have statements and have offered their support.

Mrs. MORELLA. Madam Speaker, I rise today in strong support of H.R. 169, the NO FEAR legislation. This bill provides essential help to whistleblowers and those that suffer discrimination, and it penalizes agencies that attempt to practice discrimination or punish whistleblowers. Under current law, most judgments or awards against the federal government, including federal agencies, are paid out of a general judgment fund and are not attributed to, or accounted for, by the agency responsible for the claim. This bill requires federal agencies to reimburse the government's judgment fund for amounts paid out in response to a court settlement, award or judgment against an agency in a discrimination or whistleblower protection lawsuit. Hopefully, by making agencies responsible for their actions, we can further decrease the reprehensible practice of discrimination and the needless punishing of whistleblowers.

This bill has several other important provisions which my colleague from Wisconsin has mentioned and so I would just like to take this opportunity to point out and recognize two individuals, who are here in the gallery today, Dr. Marsha Coleman-Adebayo and Mr. Leroy Warren, Jr. Both of these individuals live in my district, Montgomery County, Maryland and played an instrumental role in helping this legislation come to the floor today.

Mr. Warren is Chairman of the NAACP Federal Sector Task Force and was asked to investigate and address the ever-growing number of complaints of discrimination within the federal government. Mr. Warren's task force did an admirable job in bringing to light much of the discrimination that federal employees faced.

Dr. Coleman-Adebayo has become well known for her courageous fight against discrimination by the EPA.

She is someone who suffered terribly from her battle but preserved and won her case against the EPA. She has testified in front of both the Science and Judiciary Committees to alert all of us to the seriousness of what transpired in her case. And now, hopefully, because of the NO FEAR bill, the first civil rights bill of the 21st Century, victims of racial, sexual, and hostile work environments, and whistleblowers, will not have to suffer the pain and abuse that Dr. Coleman-Adebayo endured. Let us hope instead that H.R. 169 will push federal agencies to spend their time devising effective plans to address all forms of discrimination in the workplace.

I urge my colleagues to support this bill.

Mrs. JACKSON-LEE of Texas. Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 169, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### MEMORIALIZING FALLEN FIREFIGHTERS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 42) memorializing fallen firefighters by lowering the American flag to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland, as amended.

The Clerk read as follows:

H.J. RES. 42

Whereas 1,200,000 men and women comprise the American fire and emergency services;

Whereas the fire and emergency services is considered one of the most dangerous jobs in the United States;

Whereas fire and emergency services personnel respond to over 16 million emergency calls annually, without reservation and with little regard for their personal safety;

Whereas fire and emergency services personnel are the first to respond to an emergency, whether it involves a fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident;

Whereas approximately one-third of all active fire and emergency personnel suffer debilitating injuries annually; and

Whereas approximately 100 fire and emergency services personnel die annually in the line of duty: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That each year, the American flags on all Federal office buildings will be lowered to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that

all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on House Joint Resolution 42, the joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of House Joint Resolution 42. This joint resolution recognizes the memorial of thousands of Americans who have fallen while serving as fire and emergency personnel throughout the years in America by lowering the American flag to half-staff on the day of the National Fallen Firefighters Memorial Service. This year, this day is Sunday, October 7.

Every year, thousands of Americans attend public and private ceremonies at the campus of the National Fire Academy in Emmitsburg, Maryland, during the National Fallen Firefighters Weekend. While these ceremonies are in remembrance of lost loved ones and close friends who have fallen while serving as fire and emergency personnel, it is also an opportunity to show support for those who continue to put their lives on the line, providing aid and protection for others.

This Memorial Service is conducted by the National Fallen Firefighters Foundation, in partnership with FEMA's United States Fire Administration. It is a national memorial service dedicated to all fallen firefighters and emergency personnel.

House Joint Resolution 42 joins the Federal Government in praise and prayers for our fallen heroes by lowering the American flag to half-staff on the day of this memorial service.

Madam Speaker, every year, many of those actively participating in fire and emergency services in America suffer debilitating injuries. Between 1981 and 1999, Wisconsin lost 35 fire and emergency personnel, including Mr. Dana R. Johnson and Mr. James Is-Berner, who will be honored in 2002 at the National Fallen Firefighters Weekend.

Overall, during the same period of time, the National Fallen Firefighters Foundation reports that America has lost 2,077 fire and emergency personnel in the line of duty.

While the risks and dangers are reflected by the number of Americans that have fallen while serving as fire and emergency personnel, the number of those participating in this essential service to our communities continues to grow. Currently, Madam Speaker, fire and emergency personnel in America are 1.2 million people strong, and they can be found in every community of every State and territory in our Nation, where they respond to over 16 million emergency calls every year.

While we can speculate on how to better fortify our homeland, it is clear that our first line of domestic response is largely comprised of fire and emergency personnel.

Nothing demonstrates the significance of fire and emergency personnel more than their dedication and sacrifice in America's response to the terrorist attacks of September 11. More than 300 fire and emergency personnel died as a result of these attacks, and thousands of other fire and emergency personnel are still digging through the rubble, a dangerous task in and of itself. Of those still at the scene, it is reported that over 1,500 have been injured.

Madam Speaker, the response of our fire and emergency personnel was instantaneously initiated in the face of danger with the hope that lives could be saved. President Bush has said that in the face of terrorism, Americans must decide to live in fear or to live in freedom. Our fire and emergency personnel fearlessly answered that question and sent a clear message to the entire world: America will not be intimidated.

While America has always recognized the emergency service that fire and emergency personnel provide to our communities, on September 11, all Americans joined in their bond. Although fire and emergency personnel participate in career and voluntary positions with a variety of skills that defy virtually every obstacle, each of these individuals share a commonality, unity and brotherhood.

On September 11, we watched in utter disbelief as horrific terrorist acts were committed before our very eyes. Most people did not realize that our fire and emergency personnel had already begun to respond. Shortly thereafter, it was clear that an act of war had been committed against our Nation, and our fire and emergency personnel had begun fearless rescue efforts to save their own and to save others that had become victims of these attacks.

Madam Speaker, there is no siren or warning system for a response of this magnitude. It is a call of nature, it is a call to danger, and it is a way of life for the fire and emergency personnel in the United States of America.

Finally, Madam Speaker, we can join in remembrance of all Americans that have fallen while serving as fire and emergency personnel, and in support of those who continue to serve or who join this noble effort by voting in support of House Joint Resolution 42. I urge all of my colleagues to take the time this weekend, the weekend for this year's National Firefighters Memorial Service, to remember all those that have given their lives serving as fire and emergency personnel, and in support of all those who continue to provide this service.

Madam Speaker, I reserve the balance of my time.